Approved for Release: 2018/10/01 C06626785

CN 7929

TBF File

251438Z SEP 79

TELEGRAM

INDICATE
☐ COLLECT
☐ CHARGE TO

FROM	CLASSIFICATION
AMEMBASSY BUENOS AIRES	CONFIDENTIAL

12065:
E.O. ~~XI0652~~
TAGS:
SUBJECT:

GDS 9/25/85 (FRIEDMAN, TOWNSEND B.) OR-P
SHUM AR
(U) RELEASE AND PROTECTION FOR TIMERMAN

ACTION:

SECSTATE WASHDC IMMEDIATE

CONFIDENTIAL BUENOS AIRES 7929

REF: STATE 249264

1. (C - ENTIRE TEXT.)

AMB
DCM
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ICA
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CHRON

2. WE HAVE NOW HAD THE OPPORTUNITY TO MEET WITH TIMERMAN'S LAWYER, GENARIO CARRIO WHO SPOKE TO US IN CONFIDENCE.

3. THOUGH HE HAS NOT SEEN THE SUPREME COURT DECISION ON TIMERMAN, CARRIO FEELS PRESS REPORTS ABOUT IT ARE PROBABLY CORRECT, AT LEAST SO FAR AS ITS MAJOR THRUST--THE JUNTA HAS BEEN TOLD BY THE COURT THAT THE CONTINUED DETENTION OF TIMERMAN IS ILLEGAL. MOREOVER, CARRIO BELIEVES THAT IN SHORT ORDER--PROBABLY THIS WEEK--TIMERMAN WILL PROBABLY BE STRIPPED OF HIS CITIZENSHIP AND EXPELLED FROM THE COUNTRY BY THE JUNTA WHICH WILL TAKE THESE STEPS UNDER THE POWERS IT CONFERRED ON ITSELF WITH THE INSTITUTIONAL ACT OF 1976.

DRAFTED BY	DRAFTING DATE	TEL EXT	CONTENTS AND CLASSIFICATION APPROVED BY
POL:TBFRIEDMAN:JK	9/25/79	277	POLCOUNS:WHHALLMAN

CLEARANCES:
DCM:MCHAPLIN

CONFIDENTIAL
CLASSIFICATION

50153-101

OPTIONAL FORM 153
(Formerly FS-413)
January 1975
Dept of State

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4. CARRIO STATED TO US THAT HIS PRESENTATION TO THE COURT IN TIMERMAN'S BEHALF HAD TWO THRUSTS:

A) THAT TIMERMAN'S DETENTION UNDER THE INSTITUTIONAL ACT IS ILLEGAL; AND

B) THAT THE INSTITUTIONAL ACT IN ITSELF IS UNCONSTITUTIONAL.

5. HE BELIEVES THAT IN ORDERING TIMERMAN FREED THE COURT PROBABLY DEALT WITH THE FIRST OF THESE ARGUMENTS, BECAUSE TO DECLARE THE INSTITUTIONAL ACT ITSELF UNCONSTITUTIONAL WOULD OPEN UP A PANDORA'S BOX FOR THE JUNTA, AFFECTING AS IT WOULD THE MANY PEOPLE BEING HELD OR WHO HAVE BEEN PUNISHED UNDER THE INSTITUTIONAL ACT.

6. THE BASIC ARGUMENT HE USED TO ATTACK THE LEGALITY, AS OPPOSED TO ITS CONSTITUTIONALITY, OF TIMERMAN'S DETENTION WAS NARROWLY AIMED AT PARAGRAPH (E) OF ARTICLE TWO OF THE ACT WHICH STATES THAT AMONG THE MEASURES THAT CAN BE APPLIED TO THOSE BEING PUNISHED UNDER THE BILL IS "DETENTION IN A PLACE DETERMINED BY THE EXECUTIVE POWER FOR SO LONG AS THE INDIVIDUAL REMAINS AT THE DISPOSITION OF THE EXECUTIVE POWER...." THE ARGUMENT OF THE DEFENSE WAS THAT SINCE TIMERMAN'S DETENTION UNDER THE EXECUTIVE POWER HAS BEEN RULED ILLEGAL (BY THE COURT LAST YEAR) AND HE IS NO LONGER AT THE DISPOSITION OF THE EXECUTIVE, HE CAN NO LONGER BE HELD UNDER THE INSTITUTIONAL ACT.

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7. OTHER THAN RELEASING TIMERMAN, THE JUNTA HAS TWO OTHER OPTIONS: ONE, TO IGNORE THE COURT ORDER; TWO, TO PLACE HIM BACK UNDER PEN. CARRIO ASSERTED THAT NEITHER OF THESE OPTIONS WAS LIKELY--THE FIRST "BECAUSE IT WOULD BE ILLEGAL" AND THE SECOND BECAUSE "IT WOULD MAKE THEM LOOK RIDICULOUS TO THE WORLD."

CASTRO

OPTIONAL FORM 152a(H)
(Formerly FS-413(H)a)
January 1975
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50152-201

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